

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 6915**

**BILL NUMBER:** SB 209

**NOTE PREPARED:** Apr 13, 2009

**BILL AMENDED:** Apr 13, 2009

**SUBJECT:** Provisional and Absentee Ballots; Voting Systems; Campaign Finance.

**FIRST AUTHOR:** Sen. Young R Michael

**FIRST SPONSOR:** Rep. Battles

**BILL STATUS:** 2<sup>nd</sup> Reading - 2<sup>nd</sup> House

**FUNDS AFFECTED:** ☒ **GENERAL**  
☐ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) *Inspection of Provisional Ballot Materials*- The bill requires that election material related to provisional ballots (excluding the provisional ballots themselves) be made available for copying and inspection under the access to public records law in the same manner as other election material, except in the case of a recount or contest, when material related to provisional ballots remains confidential for six months after the completion of the recount or contest. The bill provides that information in material related to provisional ballots that identifies an individual, except for the individual's name, address, and birth date, remains confidential.

*Explanation of Provisional Ballot*- The bill requires a precinct election officer, in the case of a voter who casts a provisional ballot, or an absentee voter board, in the case of a voter who casts an absentee ballot that is treated as a provisional ballot, to provide both orally and in writing an explanation of the steps the voter must take in order to have the voter's ballot counted. The bill requires the Election Commission (EC) to prescribe the form of the explanation.

*Circuit Court Clerk Notification*- The bill requires the circuit court clerk of a county that conducts an election in which a voter casts a provisional ballot or an absentee ballot that is treated as a provisional ballot to notify the voter not later than three days after election day concerning: (1) the reasons that the voter's ballot is being treated as a provisional ballot; (2) what actions, if any, that the voter must take in order to have the voter's ballot counted; (3) the deadline by which the voter must act to have the voter's ballot counted; and (4) certain contact information that the provisional voter may use to find out about the provisional voter's ballot.

*Mailing of Notices*- The bill requires that the notice be sent by first class United States mail or given by another method that the circuit court clerk determines will provide actual notice to the voter. The bill requires

the notice to be in a form prescribed by the EC.

*List of Provisional Voters-* The bill requires the county election board (CEB) to provide a list of the name and addresses of all voters who cast a provisional ballot at an election to a candidate whose name was on the ballot or the county chairman of a political party in the county not later than 72 hours after the request.

*Class A Misdemeanor-* The bill provides that a circuit court clerk who knowingly or intentionally fails to provide a provisional voter with the required notice commits a Class A misdemeanor.

*Public Access to Provisional Voting-* The bill requires the circuit court clerk and the Secretary of State (SOS) to compile and make public certain information about provisional voting.

*Required Satellite Voting Locations-* The bill requires the county election board of a county with a population of more than 400,000 to establish a satellite office in each municipality with a population of more than 60,000.

*Military/Public Safety Absentee Ballots -* The bill provides that a member of the military or public safety officer may vote an absentee ballot by mail.

*Return to Vote after Emergency-* The bill provides that a member of the military or public safety officer who has signed the poll list and is called from the polls before voting to respond to an emergency in the voter's capacity as a member of the military or public safety officer is entitled to return to the polls and vote upon execution of an affidavit.

*Voting Systems Approval of Use-* The bill provides that a county may continue to use an optical scan ballot card voting system or an electronic voting system whose approval or certification expired on or before October 1, 2009 if the voting system meets certain requirements. The bill provides that the Indiana Election Commission (EC) may approve a voting system for use in Indiana if the voting system meets the Voluntary Voting System Guidelines adopted by the United States Election Assistance Commission on December 13, 2005.

*Prohibition of Governor's Fund-raising-* The bill provides that the Governor and the Governor's candidate's committees may not (1) solicit campaign contributions; (2) accept campaign contributions; or (3) conduct other Fund-raising activities during the long session of the General Assembly and during the day before, the day of, and the day after each organization day. The bill provides that the prohibition does not apply to the Governor's participation in party activities conducted by a regular party committee.

*Contracts with State Government-* The bill provides that persons with contracts with state government or who bid on contracts with state government and certain persons affiliated with the contractors and bidders may not make political contributions to an individual who holds a state office or is a candidate for a state office. The bill requires persons with contracts with state government or who bid on contracts with state government to register with the Election Division (ED). The bill requires the ED to make the information about registrants available in a searchable data base on the ED's web site. The bill requires registrants to notify their affiliated persons that they are registered. The bill provides civil and criminal penalties for violations. The bill provides that contractors or bidders who violate the statutes may be found nonresponsible and have their contracts voided.

**Effective Date:** (Amended) Upon Passage; July 1, 2009.

**Explanation of State Expenditures:** *Explanation of Provisional Ballot-* The EC would be able to prescribe an affidavit and notice forms within the course of a regular business meeting. If completely accessible electronically, the ED would have minimal, if any, expenditures from printing the affidavit and notice forms.

*Public Access to Provisional Voting-* This provision should present a negligible impact to the SOS. The SOS currently provides the number of provisional ballots cast and counted (the most recent available provisional counts are from the 2006 general election).

(Revised) *Contracts with State Government-* The ED would have to link a database with password accessibility to their website. This impact of this provision would depend on any contract with a service vendor to design and install the database. Additional costs could include a database administrator, hardware and development costs, dependent on the size of registry. The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this provision will depend upon legislative and administrative actions.

**Explanation of State Revenues:** *Class A Misdemeanor-* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

(Revised) *Prohibition of Governor's Fund-raising-* If a violation were to occur, the Governor or their candidate committee would be subject to a civil penalty of either two times the contribution amount received or \$1,000 (whichever is greater). Penalties are placed in the Campaign Finance Enforcement Account (CFEA).

(Revised) *Contracts with State Government-* A candidate that receives a contribution from a person prohibited from making a contribution would have to essentially send an equal amount from the candidate to the ED. The ED would place these revenues into the CFEA. Additionally, a person that violates of this provision by:

- (a) failing to update a registration,
- (b) failing to provide material information for a registration,
- (c) provides false information on a registration

could be assessed a civil penalty of \$1,000 per business day that the violation continues. In addition, a violator would commit a class B misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class B misdemeanor is \$1,000. However, any additional revenue would likely be small.

**Explanation of Local Expenditures:** *Explanation of Provisional Ballot-* This provision should minimally impact precinct or absentee voter board expenditures.

*Mailing of Notices-* Clerks could choose to mail notices to persons casting a provisional ballot. If notices were mailed at the standard first class postage rate, the cost could range from \$0.27 (postcard) to \$0.42

(letter) per notice depending on the size of the form. During the 2006 general election, 3,873 provisional ballots were cast in Indiana. Of the number cast, 2,701 or 69.7% were counted. The 2008 election results for provisional ballots are not currently available.

(Revised) *Required Satellite Voting Locations*- As of the 2000 Census, there were two counties and three municipalities within these counties that met the population requirements of this bill. The following table lists the counties, number of qualifying municipalities, an estimated cost range, and the absentee vote rate from the two most recent elections for which data is available.

County	Number of Qualifying Municipalities	Low Estimate	High Estimate	Percent Voting Absentee	
				2006 General	2008 General
Lake	2	\$3,600	\$18,000	6%	17%
Marion	1	\$1,800	\$9,000	6%	24%
<b>TOTAL</b>	<b>3</b>	<b>\$5,400</b>	<b>\$27,000</b>	n/a	n/a

The above estimate includes the personnel costs of two to five persons stationed at a satellite office. Daily pay was estimated at \$90, and the offices would be open between 10 to 20 days.

Qualifying counties establishing satellite voting offices could mitigate the expense of satellite facilities (such as rent) by placing them in other public buildings (public schools or other offices). Marion County had satellite locations 11 days prior to the last general election date.

*Military/Public Safety Absentee Ballots*- Counties may require extra absentee ballots available as a result of this provision. The impact would depend on the number of qualified voters that apply for an absentee ballot and vote by mail.

*Return to Vote after Emergency*- Precinct election board clerks may require additional administrative time to fill out affidavits for military or public safety personnel returning from an emergency to vote.

*List of Provisional Voters*- If not already compiled, county election boards would be able to compile the required information with negligible expense.

*Class A Misdemeanor*- A Class A misdemeanor is punishable by up to one year in jail.

*Public Access to Provisional Voting*- Circuit court clerks would be able to compile and prepare for public display provisional ballot information within existing resources.

*Class B Misdemeanor*: A Class B misdemeanor is punishable by up to 180 days in jail.

#### Background Information:

First Responders-The following table provides estimates on the number of certain Indiana first-responder occupations that would be affected by the bill.

<b>First-Responder Occupation (IC 10-14-2-5)</b>	<b>Estimated Employment 2007</b>
Firefighters/Emergency Medical Service Providers	6,050
Police Officers (Local)	10,760
Police Officers (State)	1,266
Excise Police	470
Conservation Officers	180
Probation Officers	1,830
Correctional Officers	8,460
Paramedics/EMT's	5,090
Military (including reserves and national guard)	20,000
State or Local Emergency Management Agency	230
<b>Total</b>	<b>54,336</b>

Absentee Voters- The statewide total absentee voting percentage was 24% in the 2008 general, 11% in the 2008 primary, and 10% in the 2006 general elections.

**Explanation of Local Revenues:** *Class A Misdemeanor-* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

**State Agencies Affected:** Election Commission, Election Division.

**Local Agencies Affected:** Precinct election boards, absentee voter boards, circuit court clerks, county election boards; trial courts, local law enforcement agencies.

**Information Sources:** U.S. Bureau of Labor Statistics, Indiana State Police: 2007 Annual Report; Office of the United States Secretary of Defense; Indiana State Budget Agency: *General and Rainy Day Fund Summaries, June 30, 2008*; U.S. Bureau of Census; Indiana Office of Secretary of State (Election Division).

**Fiscal Analyst:** Chris Baker, 317-232-9851.